a sovereign is impleaded by an action *in rem* against his ship, whether it is engaged in ordinary commerce or is employed for purposes that are more usually distinguished as public. The extent of the impleading is the same in the one case as in the other. Indeed, a great deal of the reasoning of the judgment in *The Parlement Belge* would be inexplicable if there could be applied a universal rule without possible exception to the effect that, once the circumstance of a foreign sovereign being impleaded against his will can be established, a proceeding necessarily becomes defective by virtue of that circumstance alone.

To say this is merely to disavow an alleged absolute and universal rule. It does nothing to throw doubt upon the existence of the general principle. Nor is it necessary for Their Lordships to express any opinion in this case upon the question whether and, if so, to what extent proceedings which concern the title to immovable property within the jurisdiction form an exception from this general rule.

Their Lordships will humbly advise Her Majesty that the Appeal should be dismissed. The appellant must pay the costs of the Appeal.

Appeal dismissed.

WONG SER SENG v. C. V. SANKARAN NAIR.

[App. Civ. Juris. (Storr, J.) May 10, 1952]

[J.B. — Civil Appeal No. 4 of 1952]

Landlord and tenant — Control of Rent Ordinance, 1948, ss. 13(1)(b) and 15(a) — Tenant under a contract — Termination of tenancy — Refusal of tenant to give up possession — Statutory tenancy.

In this case the learned Magistrate found that the appellant became a tenant of a portion of No. 65 (top floor) Jalan Tan Hiok Nee, Johore Bahru, by virtue of an agreement on 1st August, 1948, for a term certain of one year, at the end of which time the respondent granted the appellant, at his request, an extension of the term for 3 months. At the expiration of 3 months the appellant continued in possession of the premises.

The respondent took ejectment proceedings against the appellant. The appellant contended that he was a statutory tenant and therefore under the protection of the Control of Rent Ordinance.

Held, (1) that the appellant by not giving up possession at the end of the fixed term has not broken an obligation of the tenancy as envisaged by section 13(1)(b) of the Ordinance; and (2) that he became a statutory tenant by virtue of section 15(a) of the Ordinance and is entitled as such to the protection given by the Ordinance.

Cases referred to:—

(1) *Cruise v. Terrell* (1922) 1 K.B. 664 at p. 669.

(2) *Remon v. City of London Real Property Co. Ltd.* (1921) 1 K.B. 49 at p. 57.

(3) *Artizans Dwellings Co. v. Whitaker* (1919) 2 K.B. 304.

CIVIL APPEAL from Magistrate Johore Bahru.

C. L. Duff for the appellant.

P. V. Charry for the respondent.

Cur. Adv. Vult.

Storr, J. : — Briefly the facts found by the learned Magistrate in his judgment in this case were that the appellant became a tenant of a portion of No. 65 (top floor), Jalan Tan Hiok Nee, Johore Bahru, by virtue of an agreement on 1st August, 1948, for a term certain of one year, at the end of which time the respondent granted the appellant, at his request, an extension of the term for 3 months. At the expiration of the 3 months the appellant continued in possession of the premises.

After obtaining permission on the 31st December, 1950, from the Rent Assessment Board to take proceedings against the appellant, the respondent took action for the ejectment of the appellant. The matter in due course came before the learned Magistrate on the 10th June, 1951, and he on the 21st July, 1951, ordered the appellant to give up possession of the portion of the top floor of premises No. 65, Jalan Tan Hiok Nee, occupied by him to the respondent on or before the 31st October 1951. The appellant appealed against that order.

The appellant submitted that by continuing in possession after the term he became a statutory tenant and as such was entitled to remain in possession until his statutory tenancy was determined and he was ordered to give up possession by the Court.

It was argued by the respondent here and in the Court below that as the agreement for occupation was for a term certain and was extended for another term certain, i.e. 3 months, the appellant by continuing in possession of the premises at the end of the term agreed upon could not claim the protection of the Control of Rent Ordinance as a statutory tenant, but, as he had broken an obligation of the tenancy, by virtue of section 13(1)(b) of the Control of Rent Ordinance No. 6 of 1948, the respondent was entitled to possession of the premises.

In his grounds of judgment the learned Magistrate stated :—

"I hold that the defendant is not a statutory tenant but a tenant under a contract and as such he is bound by the terms of the agreement of tenancy. That being so, I am satisfied that the plaintiff has made out a case for possession under section 13(1)(b) of the Control of Rent Ordinance, 1948, to justify an order for ejectment to be made against the defendant."

The questions for consideration therefore are: (1) whether the tenant of a term certain holding over after that term becomes a statutory tenant by virtue of section 15(a) of the Ordinance and can claim the protection of the Ordinance, and (2) whether the breach of an agreement to give up possession at the end of the term is one of the breaches envisaged by the legislature in section 13(1)(b) of the Ordinance.

With regard to the first point, Lord Sterndale, M.R., in the Court of Appeal in *Cruise v. Terrell*[1] said :—

"It is contended that the Act (i.e. the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, which is very similar to our Control of Rent Ordinance) does not apply in any way to a tenancy for a term certain, and therefore the letting was not within the Act. I cannot understand how it can be said that the sections of the Act which apply to all lettings do not apply to a letting for a term certain. Such a contention is contradicted by expressions which occur in various parts of the Act. I see no ground for that contention."

With regard to the second point, it was settled by the Court of Appeal in *Remon v. City of London Real Property Co. Ltd.*[2] where Scrutton, L.J., said :—

"The Act of 1920 has made some progress in the development of this new statutory tenancy. Under the original Acts the statutory tenant was allowed to stay if he 'performed the other conditions of the tenancy.' But one of those conditions might be to give up the premises at the expiration of the tenancy by agreement. To insist on this as a condition would be to render the whole Act nugatory, and Astbury, J. in **Artizans Dwellings Co. v. Whitaker**[3] held that this part of the conditions of the tenancy was inapplicable."

I have therefore come to the conclusion that the appellant by not giving up possession at the end of the fixed term has not broken an obligation of the tenancy as envisaged by section 13(1)(b) of the Ordinance and that he became a statutory tenant by virtue of section 15(a) and is entitled as such to the protection given by the Ordinance; further that as his statutory tenancy has not been determined the respondent is not entitled to possession of the premises.

For the above reasons I allow the appeal with costs here and in the Court below.

Appeal allowed.

THUNG FUN v. LOOI FONG UM.

[Court of Appeal (Mathew, C.J. (F.M.), Sir Charles Murray-Aynsley, C.J. (Singapore) and Knight, J.) May 14, 1952]

[J.B. — Civil Appeal No. 10 of 1952]

Landlord and Tenant Control of Rent Ordinance, 1948, ss. 15 and 16 — Application of — Rent in arrears for more than 14 days — Demand for rent — Whether necessary.

In this case the appellant is the owner of No. 8 Jalan Leong Yong, Segamat. The respondent is the tenant of the premises and has been the tenant since 16th September 1945. The tenancy was a verbal one and the rent is payable at $75 per mensem. On the 28th February, 1951 rent for the month of February became due and payable and the appellant asked his younger brother to demand it from the respondent who said he had no money and that two or three days later he would send the rent. No payment was made. On 28th March, 1951 appellant through his Solicitors sent to the respondent a Notice to Quit.

On the 3rd of April, 1951 the appellant received a sum of $225 from the respondent being rent for the month of February, March and April 1951. This payment was accepted by the appellant without prejudice to his claim for possession of the premises, but no rent was paid or received beyond that date.

On the 6th of May, 1951 the appellant filed a plaint against the respondent claiming an order for (a) the possession of the said premises; (b) mense profits and (c) costs of the suit. The Judgment was entered for the appellant in the Sessions Court and this decision was reversed on appeal by the High Court.

The Court of Appeal was unable to ascertain from the record what facts were found by the learned President of the Sessions Court and therefore ordered that the case be tried de novo by the Sessions Court with directions to make at the trial definite finding of facts on the following matters:

(i) Was there any agreement as to whom the rent should be paid, if so where?

(ii) Was there a demand for rent on the premises on the 28th February, 1951?

The Sessions Court when arriving at a decision will take these finding of facts into consideration.

Appeal allowed with costs. **Kor Aik v. Tay Aik Liok**[1] doubted.

Cases referred to :—

(1) *Kor Aik v. Tay Aik Liok* (1951) M.L.R. 103.

COURT OF APPEAL.

F. R. N. H. Massey and H. B. Ball for the appellant.

L. A. J. Smith for the respondent.

Cur. Adv. Vult.

Mathew, C.J. : — This appeal arises out of a claim for the possession of premises known as No. 8 Jalan Leong Yong, Segamat. Judgment was entered for the